

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ROBERT HANCHER, IV,	:	Case No. 3:11-cv-319
Petitioner,	:	
vs.	:	District Judge Walter H. Rice
	:	Magistrate Judge Michael J. Newman
WARDEN, WARREN	:	
CORRECTIONAL INSTITUTION,	:	
Respondent.	:	

ORDER TO RESPONDENT

The above-captioned case is pending before this Court on a petition for a writ of *habeas corpus*. Petitioner was convicted in the Montgomery County, Ohio Common Pleas Court in Case Number 2008 CR 03039/2, and appealed to the Montgomery County, Ohio Court of Appeals in Case Number 023515.

Respondent did not file any state court transcripts -- stating (1) the recording of the suppression hearing had not been transcribed; and (2) Respondent was not in possession of the trial transcript. *See* doc. 9 at PageID 68. Upon the Court's review of the docket sheet for Montgomery County, Ohio Court of Appeals Case Number 023515, however, it appears a transcript was filed in August 2009. *See* Appendix A.

In order to fully analyze Petitioner's *habeas* petition, this Court wishes to review the state court transcripts for the suppression hearing and trial proceedings, if they are available. Rule 5 of the Rules Governing Section 2254 Cases permits a federal *habeas* court to order Respondent to furnish state court transcripts which it deems relevant to the *habeas* proceeding. Accordingly, the Court **ORDERS** Respondent to file these transcripts -- or, alternatively, report to the Court why

the transcripts cannot be filed -- within **10 DAYS** from the date of this Order (*i.e.*, on or before **April 8, 2013**).

IT IS SO ORDERED.


























March 28, 2013












s/ **Michael J. Newman**
United States Magistrate Judge

APPENDIX A

Montgomery County Ohio
Clerk Of Courts
Gregory A. Brush
Public Records Online System Version II
CA 023515 - STATE OF OHIO Vs ROBERT HANCHER

IMAGE DATE ENTRY

	11/09/2011	TRANSCRIPT OF PROCEEDINGS FILED VOL V
	11/09/2010	ENTRY FROM THE SUPREME COURT FILED DECLINING JURISDICTION AND DISMISSING APPEAL.
	07/26/2010	COPY OF NOTICE OF APPEAL TO THE SUPREME COURT FILED BY APPELLANT ON JULY 16, 2010. Attorney: NAZZARINE, SCOTT R (0079819)
	06/15/2010	RECEIPT FILED WHEN PAPERS RETURNED TO ORIGINAL COURT
	06/15/2010	NOTE - ALL ORIGINAL PAPERS RETURNED TO RECORDS DEPT
	06/04/2010	FINAL ENTRY FILED
	06/04/2010	OPINION FILED AFFIRMING JUDGMENT.
	02/05/2010	MAGISTRATES ORDER FILED. APPELLANT'S REPLY BRIEF SHALL BE ACCEPTED AS FILED ON FEB 4, 2010.
	02/04/2010	BRIEF OF APPELLANT FILED Attorney: SIRKIN, H LOUIS (0024573)
	02/04/2010	MOTION OF APPELLANT TO ALLOW HIS REPLY BRIEF TO BE SUBMITTED INSTANTER FILED Attorney: SIRKIN, H LOUIS (0024573)
	02/03/2010	NOTICE OF ORAL ARGUMENT FILED. ORAL ARGUMENT WILL BE HELD MARCH 23, 2010 AT 10:30 AM.
	01/26/2010	MAGISTRATES ORDER FILED. CASE WILL BE SET FOR ORAL ARGUMENT.
	01/26/2010	MOTION OF APPELLANT FOR EXT TO FILE REPLY BRIEF FILED Attorney: SIRKIN, H LOUIS (0024573)
	01/20/2010	MOTION OF APPELLEE FOR ORAL ARGUMENT FILED Attorney: BRANDT, KIRSTEN A (0070162)
	01/20/2010	MAGISTRATES ORDER FILED. APPELLEE'S BRIEF SHALL BE ACCEPTED AS FILED ON JAN 12, 2010.
	01/12/2010	BRIEF OF APPELLEE FILED Attorney: BRANDT, KIRSTEN A (0070162)
	01/12/2010	MOTION OF APPELLEE TO FILE BRIEF INSTANTER FILED Attorney: BRANDT, KIRSTEN A (0070162)
	01/12/2010	MOTION OF APPELLEE FOR LEAVE TO EXCEED PAGE LIMITATION FILED Attorney: BRANDT, KIRSTEN A (0070162)
	12/28/2009	MOTION OF APPELLEE FOR EXT TO FILE BRIEF FILED Attorney: BRANDT, KIRSTEN A (0070162)
	11/09/2009	MAGISTRATES ORDER FILED. APPELLEE'S BRIEF IS DUE ON DECEMBER 28, 2009.
	10/29/2009	NOTICE OF CHANGE OF ADDRESS FOR H LOUIS SIRKIN, JENNIFER M KINSLEY AND SCOTT RYAN NAZZARINE.
	10/23/2009	MOTION OF APPELLEE FOR EXT TO FILE BRIEF FILED Attorney: BRANDT, KIRSTEN A (0070162)
	10/14/2009	MAGISTRATES ORDER FILED. CASE WILL BE SET FOR ORAL ARGUMENT.
	10/07/2009	MOTION OF APPELLANT FOR ORAL ARGUMENT FILED Attorney: SIRKIN, H LOUIS (0024573)
	10/05/2009	BRIEF OF APPELLANT FILED Attorney: SIRKIN, H LOUIS (0024573)
	09/01/2009	MAGISTRATES ORDER FILED. APPELLANT'S BRIEF IS DUE OCT 5, 2009.
	08/20/2009	MOTION OF APPELLANT FOR EXT TO FILE BRIEF FILED Attorney: SIRKIN, H LOUIS (0024573)
	08/10/2009	MOTION, ENTRY, AND CERTIFICATION FOR APPOINTED COUNSEL FEE FILED
	08/07/2009	TRANSCRIPT OF PROCEEDINGS FILED VOL IV
	08/07/2009	TRANSCRIPT OF PROCEEDINGS FILED VOL III
	08/07/2009	TRANSCRIPT OF PROCEEDINGS FILED VOL II
	08/07/2009	TRANSCRIPT OF PROCEEDINGS FILED - VOL 1

	08/05/2009	MAGISTRATES ORDER FILED. APPELLANT'S BRIEF IS DUE SEPT 4, 2009.
	07/30/2009	MAGISTRATES ORDER FILED. H LOUIS SIRKIN, JENNIFER KINSLEY & SCOTT NAZZARINE ARE COUNSEL OF RECORD FOR APPELLANT.
	07/21/2009	MOTION OF APPELLANT FOR EXT TO FILE BRIEF FILED Attorney: SIRKIN, H LOUIS (0024573)
	07/20/2009	CERTIFICATE OF MAILING - H LOUIS SIRKIN - 07/17/09
	07/17/2009	RECEIPT FILED FROM THE PROSECUTORS OFFICE - 07/16/09
	07/16/2009	RULE 11B NOTICE FILED COA - RULE 11(B) NOTICE Sent on: 07/16/2009 13:25:40
	07/16/2009	6 CD'S FILED (MOTION TO SUPPRESS PART 1 & 2, HEARING, JURY TRIAL AND SENTENCING)
	07/16/2009	CRIMINAL SUMMARY OF DOCKET FILED
	07/15/2009	RECORD OF APPEARANCE OF COUNSEL FILED. H LOUIS SIRKIN APPEARS FOR APPELLANT.
	07/06/2009	APPOINTMENT OF COUNSEL (CPC) FILED APPOINTING J ALLEN WILMES AS COUNSEL ON APPEAL
	06/29/2009	CRIMINAL DOCKET STATEMENT FILED - TR TO BE FILED - SUB COUNSEL REQUESTED
	06/29/2009	NOTICE OF APPEAL FILED
	06/28/2009	CARLEY INGRAM 301 W THIRD STREET FIFTH FLOOR DAYTON, OH 45422 ATTORNEY FOR PLAINTIFF/APPELLEE H LOUIS SIRKIN JENNIFER KINSLEY SCOTT NAZZARINE 810 SYCAMORE ST SECOND FLOOR CINCINNATI, OH 45202 ATTORNEYS FOR DEFENDANT/APPELLANT